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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,452	06/26/2003	Naoyuki Enjoji	TOW-030	9395

959 7590 06/16/2006

LAHIVE & COCKFIELD  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER
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MARTIN, ANGELA J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/608,452

Applicant(s)

ENJOJI ET AL.

Examiner

Angela J. Martin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 1, 2006 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 1-12, the phrase "fuel gas outlet/inlet passage provided outside of said first and second stacks" renders the claim indefinite because it is unclear what "outside" is referring to.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson, U.S. Pat. No. 6,841,275 B2.

Rejection of claims 1-5 and 11,12 drawn to a fuel cell; claims 6-10 drawn to a method of controlling a fuel cell.

Pearson teaches a fuel cell comprising a first and second fuel cell stack having a plurality of unit cells (claim 1), each of the plurality of unit cells has a membrane electrode assembly including a solid polymer electrolyte membrane interposed an anode and cathode (col. 9, lines 51-55), the assemblies having reactant gas passages and coolant passages connected in series with each other (claim 2); a fuel gas outlet/inlet passage extending between unit cells and connecting with fuel gas passages (Fig. 8); and a fuel gas adjusting mechanism connected to the fuel outlet/inlet passage for controlling the flow rate and direction of the fuel gas (claim 1). It teaches an oxygen-containing gas adjusting mechanism for controlling the flow rate and direction of the oxygen-containing gas (claim 1). It teaches a coolant adjusting mechanism for controlling the flow rate and direction of the coolant (claim 1). It teaches at least two of the unit cells are juxtaposed (Fig. 8). It teaches an oxygen-containing gas adjusting mechanism for controlling temperature, relative humidity, and flow rate of the gas (claim 1). It teaches a coolant adjusting mechanism for controlling the temperature and flow rate of a coolant (claim 1). It teaches a method of controlling a fuel cell comprising the step of controlling a fuel gas flowing through fuel gas passages, and adjusting the temperatures and relative humidities of the cell assemblies with a fuel gas adjusting

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mechanism (Fig. 1). It teaches the step of controlling an oxygen-containing gas flowing through oxygen-containing gas passages, and adjusting the temperatures and relative humidities of the cell assemblies with an oxygen-containing gas adjusting mechanism (claim 1). It teaches the step of adjusting the temperatures and relative humidities of the cell assemblies with a coolant adjusting mechanism (claim 1).

Thus, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because although the prior art of record does not recite passages "outside of said ...stacks" it is not clear what "outside" is referring to.

### ***Response to Arguments***

7. Applicant's arguments with respect to above claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schafer, U.S. Pat. App. Pub. 2004/0166383 A1, teaches a first and second fuel cell stack with a fuel gas adjusting mechanism. Wariishi et al., U.S. Pat. App. Pub. 2004/0161649 A1 teach a first and second fuel cell stack with a fuel gas adjusting mechanism.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Martin whose telephone number is 571-272-

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1288. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
AJM